

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF  
TOMBSTONE AND THE COUNTY OF COCHISE FOR SETBACK  
INSPECTION FROM TOMBSTONE AQUEDUCT**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the City of Tombstone, a municipal corporation of the State of Arizona, hereinafter referred to as "the City," and the County of Cochise, a political subdivision of the State of Arizona, hereinafter referred to as "the County", pursuant to the authority of A.R.S § 11-952, et seq.

WHEREAS, the Tombstone aqueduct is located in part in the unincorporated area of Cochise County; and

WHEREAS, the County has the resources available to assist the City in the performance of setback inspections to verify adequate setback under the terms and conditions of this Agreement, and

WHEREAS, pursuant to A.R.S. §§ 11-863 and 11-952, the County and the City are authorized to enter into agreements such as this for the joint exercise of authority common to the parties and for the performance of services for each party;

**IT IS HEREBY AGREED THAT:**

1. The County agrees to provide, subject to the availability of its resources and upon the inspection request of the property owners, Tombstone Aqueduct setback inspection(s) for the City of Tombstone, to be performed by qualified County personnel. The services to be provided by the County shall be limited to visual inspection of setbacks determining compliance with the conditioned setback requirement as noted on the permit issued by the County. This Agreement shall not obligate or authorize the County personnel to take any regulatory action, in either an administrative or judicial forum, to enforce compliance with any such City regulation. The City shall retain the full responsibility for all such enforcement actions.
2. The City will compensate the County for such services at the rate of fifty dollars (\$50.00) per hour, to be prorated to the nearest tenth of an hour as assessed by the County. The City will also in addition to the hourly rate, include 10% of the hourly cost as an administrative fee. The City will make all such payments within thirty (30) days of the receipt of an itemized bill for authorized services.
3. This Agreement shall become effective following its approval by each party and shall remain in effect for a term of one year. Thereafter, this Agreement shall automatically be renewed for successive one-year terms, unless the Agreement is terminated earlier as provided in this Agreement.
4. This Agreement may be terminated, with or without cause, by either party upon written notification of intent to terminate, provided not less than sixty (60) days prior to

the effective date of such termination. This Agreement shall also be subject to termination pursuant to the provisions of A.R.S. § 38-511, which provides for termination of a contract in the event of certain conflicts of interest.

5. An employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any worker's compensation benefits which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

All employees are hereby notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

6. To the fullest extent allowed by law, the City shall defend, hold harmless, and indemnify the County, its officers, agents and employees, from all claims, demands, suits, damages and loss ("claims") which result from the negligence or intentional torts of the City, its agents, officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. To the fullest extent allowed by law, the County shall defend, hold harmless, and indemnify the City, its officers, agents and employees, from all claims, demands, suits, damages and loss ("claims") which result from the negligence or intentional torts of the County, its agents officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. The extent of the foregoing liabilities shall be limited to and determined by the respective fault of the parties, their officers, agents and employees, in comparison with others (including, but not limited to, the other party) who may have contributed to or in part caused any such claim to arise.

7. This Agreement shall be governed by the laws of the State of Arizona. The parties hereby agree that the venue for the resolution of any dispute under this Agreement shall be and shall remain in Cochise County.

**APPROVED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY,  
ARIZONA ,**

this \_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

COCHISE COUNTY BOARD OF  
SUPERVISORS

\_\_\_\_\_  
Katie Howard  
Clerk of the Board


\_\_\_\_\_  
Patrick Call  
Chair of the Board

APPROVED BY MAYOR AND COUNCIL OF THE CITY OF TOMBSTONE,  
ARIZONA,

this 13th day of July, 2010.

ATTEST:

CITY OF TOMBSTONE

  
Brenda A. Ikirt  
Interim City Clerk

  
Dustin Escapule  
Mayor

ATTORNEY CERTIFICATION

The attached agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Deputy County Attorney who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Cochise County.

APPROVED AS TO FORM this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

COCHISE COUNTY ATTORNEY

By: \_\_\_\_\_  
Civil Deputy County Attorney

In accordance with A.R.S. § 11-952, this agreement has been reviewed by the undersigned who has determined that this agreement is in appropriate form and within the powers and authority granted to the City of Tombstone, State of Arizona.

APPROVED AS TO FORM this 10th day of August, 2010.

CITY OF TOMBSTONE

By:   
City Attorney